

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kyungyoon Min et al.

Serial No. 10/826,420

Filed: April 16, 2004

For: METHOD AND APPARATUS FOR
COLLECTING AND PROCESSING BLOOD

Examiner: Leslie R. Deak

Group Art No.: 3761

Confirmation No.: 9851

OK to enter arguments
/LRD/ 13 May 2009

RESPONSE TO OFFICE ACTION OF MARCH 9, 2009

Sir:

In a final Office Action dated March 9, 2009, claims 1, 3-6, 10, and 20-31 of the above-identified patent application were rejected under Section 103(a) as being unpatentable over U.S. Patent No. 6,632,191 ("Headley"). Claims 7 and 13 were rejected as being unpatentable over Headley in view of U.S. Patent No. 6,743,192 ("Sakota").

The methods of independent claims 1, 20, and 28 are clearly distinguishable from Headley. All of these claims recite methods wherein whole blood is flowed from a blood source to two containers. At least a portion of the whole blood in one of these containers is processed in that container, while processing of at least a portion of the quantity of whole blood in the other container does not begin before the source is disconnected.

As acknowledged in the Office Action, Headley fails to teach or otherwise suggest a method of flowing whole blood into two container locations. Instead, Headley provides only one location (rotor 21) into which whole blood is flowed prior to component separation and subsequent removal of a blood component from the location. The Office Action points to the prior art system illustrated in Fig. 1 of Headley as employing an initial collection container 12 in which blood from a donor is processed

after the donor has been disconnected from the system. Continuing, the Office Action argues that, taken together, this prior art system and the Headley system (which flows blood into a rotor/chamber 21 for processing) suggest that a blood separation circuit may have both an initial collection container and a separation chamber that are capable of holding collected blood before processing.

It is respectfully submitted that this conclusion is incorrect because it is based on the faulty premise that the bag 12 of the prior art system is an initial collection container or otherwise distinguishable from the rotor 21 of the Headley system. On the contrary, the bag 12 is functionally identical to the rotor 21, a fact that cannot be avoided by arbitrarily labeling the bag 12 as an "initial collection container." In both systems, blood flows from a source into the bag/rotor and is processed therein, either immediately or after the source has been disconnected from the system. The prior art bag 12 is not used to temporarily store blood before it is processed in a different portion of the system and does not otherwise serve as an initial collection container or a blood receptacle that is separate from a rotor/processing chamber.

Indeed, the fundamental difference between the two systems is not their structure, but is instead methodological, in that the Headley system allows for processing to begin before the blood source is disconnected, whereas the prior art system is described as requiring disconnection of the source before processing begins. Hence, considering the two systems together does not result in the claimed subject matter, as both pass blood directly into a processing receptacle, rather than passing the blood into a separate, non-processing receptacle.

Further, there is nothing inherent in the structure or method of operation of either the Headley system or the prior art system of Fig. 1 that suggests the claimed subject matter. As described above, each involves flowing blood from a source into a single location and then processing the blood in that location. Headley provides no suggestion to incorporate a second receptacle into either system and there is no logical reason based on the teaching of this prior art why one of ordinary skill in the art would have been motivated to modify either to include a second receptacle, as both systems are

fully functional with just a single blood receptacle. Accordingly, it is respectfully requested that the rejection of independent claims 1, 20, and 28 (and the claims dependent therefrom) be withdrawn.

Although not used in the Office Action to reject independent claims 1, 20, and 28, it is noted that Sakota also fails to teach, suggest, or otherwise provide a logical basis for modifying a prior art system to arrive at the claimed subject matter. In particular, as in Headley, Sakota makes no provision for a system having two locations into which whole blood is flowed.

Because the prior art identified in the Office Action fails to teach or suggest the claimed subject matter or otherwise render it obvious, it is respectfully requested that the rejections of the pending claims be withdrawn.

CONCLUSION

For the above reasons, it is respectfully submitted that all of the claims are in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,

COOK ALEX LTD.

Date: April 28, 2009

By: /Joseph R. Freund/
Gary W. McFarron
Reg. No. 27,357
Joseph R. Freund
Reg. No. 55,191

200 W. Adams Street, Ste. 2850
Chicago, IL 60606
Phone: (312)236-8500
Fax: (312) 236-8176

Customer No. 69275